

REMARKS

The Office Action dated October 7, 2004 presents the examination of claims 1, 3, 6, 12, and 13. Claims 1, 6, 12, and 13 are amended. Support for the recitation of "excluding an addition of any inhibiting agents which inhibit the(a) degradation of brain natriuretic peptide" is found in the specification, such as on page 1, last line to page 2, line 6, page 3, lines 2-9 and page 4, lines 18-19. No new matter is inserted into the application.

Rejection under 35 U.S.C. § 112, first paragraph

The Examiner rejects claims 1, 3, 6, 12, and 13 under 35 U.S.C. § 112, first paragraph, for allegedly containing new matter. Applicants respectfully traverse. Reconsideration of the claims and withdrawal of the instant rejection are respectfully requested.

Specifically, the Examiner asserts that the phrase "excluding the addition of any inhibiting agents" is new matter and not supported by the specification as originally filed. Applicants respectfully disagree. As noted above, claims 1, 6, 12, and 13, as amended, recite "excluding an addition of any inhibiting agents which inhibit the(a) degradation of brain natriuretic peptide." Support for this phrase is found in the specification, such as on page 1, last line to page 2, line 6, page 3, lines 2-9 and page 4,

lines 18-19. Therefore, contrary to the Examiner's remarks, the phrase is not new matter.

The Examiner asserts that the specification teaches EDTA as an inhibiting agent. Although EDTA solution is used in the examples, Applicants respectfully submit that they are not used as an inhibiting agent for the degradation of brain natriuretic peptide. Instead, the EDTA solution is used merely to inhibit the clotting of blood, which is the well-known function of EDTA in blood solutions. See, Examples 1-3 of the specification.

Finally, claims 1, 6, 12, and 13, as amended, recite "excluding an addition of any inhibiting agents which inhibit the(a) degradation of brain natriuretic peptide." Since EDTA does not inhibit the degradation of brain natriuretic peptide, it is not an "inhibitory agent" with the scope of the claims.

Based on the above, Applicants respectfully submit that all claim limitations are fully supported by the specification. Withdrawal of the instant rejection is therefore respectfully requested.

Rejection under 35 U.S.C. § 112, second paragraph

The Examiner rejects claims 1, 3, 6, 12, and 13 under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite. Applicants

respectfully traverse. Reconsideration of the claims and withdrawal of the instant rejection are respectfully requested.

Specifically, the Examiner asserts that the recitation of "the degradation" in claim 1, line 1, "the face" in claim 1, line 5, and "the addition" in claim 1, line 8 lack antecedent basis. In order to alleviate any issues with improper antecedent basis, "the degradation" is amended to "a degradation", "the face" is amended to "a face", and "the addition" is amended to "an addition." Thus, the instant rejection is overcome.

Conclusion

Applicants respectfully submit that the above remarks and/or amendments fully address and overcome the outstanding rejections. For the foregoing reasons, Applicants respectfully request the Examiner to withdraw all of the outstanding rejections, and to issue a Notice of Allowance indicating the patentability of the present claims. Early and favorable action of the merits of the present application is thereby respectfully requested.

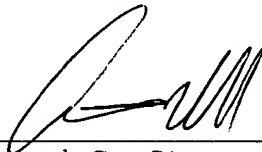
If there are any minor matters precluding allowance of the present application which may be resolved by a telephone discussion, the Examiner is respectfully requested to contact Kristi L. Rupert, Ph.D. (Reg. No. 45,702) at (703) 205-8000.

Appl. No. 09/530,013

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #32868
s/ Raymond C. Stewart, #21,066

KLR
RCS/KLR
0032-0254P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000